

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
EXECUTIVE COMMITTEE
MINUTES OF PUBLIC HEARING**

DATE..... June 2, 2004
TIME..... 4:30 P.M.
PLACE CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE IN 47901

MEMBERS PRESENT

KD Benson
Dr. Carl Griffin
Robert Bowman
Steve Schreckengast
David Williams
Gary Schroeder

MEMBERS ABSENT

Mark Hermodson

STAFF PRESENT

Sallie Fahey
Margy Deverall
Kathy Lind
Heather Prough
Rodney Forbes, Atty.
Michelle D'Andrea

Vice President KD Benson called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes of the May 5, 2004, Executive Committee public hearing as submitted. Carl Griffin seconded and the motion carried by voice vote.

II. NEW BUSINESS

Sallie Fahey informed the Board that **RESOLUTION PD 04-20: WILLIAMS RIDGE PLANNED DEVELOPMENT** had to be continued to the July 7, 2004 Executive Committee meeting because they were still working out details with the city that might change the plans. She stated **S-3507- THE OAKS SUBDIVISION (Minor Sketch)** had to be continued to the July 7, 2004 Executive Committee meeting because they were still working on their flood plain elevation. She mentioned that **S-3509** and **S-3510** could not be heard until the proofs of publication arrived.

III. PUBLIC HEARING

Gary Schroeder moved to continue **RESOLUTION PD 04-20: WILLIAMS RIDGE PLANNED DEVELOPMENT** and **S-3507- THE OAKS SUBDIVISION (Minor Sketch)** to the July 7, 2004 Executive Committee meeting. Carl Griffin seconded and the motion carried by voice vote.

Gary Schroeder moved that the Comprehensive Plan for Tippecanoe County, the Unified Zoning Ordinance of Tippecanoe County, and the Unified Subdivision Ordinance for Tippecanoe County, Indiana are hereby entered by reference into the record of each agenda item. Carl Griffin seconded and the motion carried by voice vote.

A. Subdivisions

1. **S-3497—WINTERGREEN WOODS SUBDIVISION (Minor-Sketch):** Petitioner is seeking primary approval for a 4-lot subdivision on 9.92 acres, located on the east side of CR 900 E, 1/2 mile south of CR 800 N, in Washington 14 (SW) 24-3. CONTINUED FROM THE MAY AREA PLAN COMMISSION MEETING.

Gary Schroeder moved to hear and vote on the above-described request. Carl Griffin seconded the motion

Sallie Fahey presented slides of the zoning map, 2 aerial photos, and sketch plan. She recapped the staff report with recommendation of conditional primary approval contingent on the following:

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

1. Except for the approved entrance on Lot 1 and the access easement serving Lots 2, 3, and 4, a "No Vehicular Access" statement shall be platted along the CR 900 E right-of-way line.
2. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.

3. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
4. All required building setbacks shall be platted.
5. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

6. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

Bob Gross, 420 Columbia Street, Ste 100, Lafayette, IN, concurred with the staff report and asked for approval.

The Committee voted by ballot 6 yes to 0 no to grant conditional primary approval **S-3497—WINTERGREEN WOODS SUBDIVISION (Minor-Sketch).**

2. **S-3506—CLEARWATER SUBDIVISION (Minor-Sketch):** Petitioners are seeking primary approval for a 4-lot subdivision on 7.62 acres, located on the west side of Grant Road, just north of the Pretty Prairie Road intersection, in Tippecanoe 09 (NE) 24-3.

Gary Schroeder moved to hear and vote on the above-described request. Carl Griffin seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, and sketch plan. She read the staff report with recommendation of conditional primary approval contingent on the following:

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

1. Except for the approved entrance, a "No Vehicular Access" statement shall be platted along the Grant Road right-of-way line.
2. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
3. All required building setbacks shall be platted.
4. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

5. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.

Nick Starr, 413 Teal Road, Lafayette, IN, surveyor for the petitioner, concurred with the staff report and asked for approval

The Committee voted by ballot 6 yes to 0 no to grant conditional primary approval **S-3506—CLEARWATER SUBDIVISION (Minor-Sketch).**

IV. APPROVAL OF THE JUNE 16, 2004 APC PUBLIC HEARING AGENDA PUBLIC HEARING

Sallie Fahey asked that **Z-2176 – WABASH VILLAGE, INC (GB TO PDNR)** not be placed on the agenda because some elements of the PD appeared in the preliminary plans without having been discussed and negotiated.

A. REZONING ACTIVITIES

Gary Schroeder moved that the following rezone petitions be placed on the June 16, 2004 Area Plan Commission Public Hearing Agenda:

UZO AMENDMENT #44

Z-2178 - ROBERT MEISTER (GB TO PDRN)

Z-2179 – EAGLE'S NEST CORPORATION (R1 TO R1B)

Z-2182 – CORY HOMES, INC. AND COMMUNITY HOMES, INC. (R1B TO NB)

Z-2183 – ROBERT D. & JUDITH K. GLENN (NB & R1 TO I3)

Z-2185 – CINGULAR WIRELESS (AA TO A)

Z-2186 – G & L DEVELOPMENT (PDRS TO GB)

Z-2187 - G & L DEVELOPMENT (AW TO R1 & R1A)

Z-2188 – RONALD WHISTLER (R1 TO GB)

Carl Griffin seconded and the motion carried by voice vote.

B. SUBDIVISIONS

Gary Schroeder moved that the following subdivision petitions be placed on the June 16, 2004 Area Plan Commission Public Hearing Agenda at petitioner's request, placement thereon being without reference to compliance or non-compliance with the adopted subdivision ordinance:

S-3461 – BARR MINOR SUBDIVISION (MINOR SKETCH)

S-3514 – REGAL PARK SUBDIVISION (MAJOR-PRELIMINARY)

Carl Griffin seconded and the motion carried by voice vote.

Sallie Fahey informed the Committee that neither the petitioner nor the surveyor was present to represent **S-3509 – McALISTER SUBDIVISION**. She stated that the petitioners were present for **S-3510 – COLLIER SUBDIVISION** and had all the paperwork except for the notarized sign-posting affidavit. She asked if anyone in the audience was notary and could sign the affidavit so that this case could be heard.

KD Benson asked if the notary had to have their seal with them.

Sallie Fahey stated that she did think the seal was required, only their signature and expiration date.

KD Benson asked if anyone in the audience was a notary.

Gary Schroeder stated that he was a notary.

Phyllis Hunt, stated that she was a notary but did not have her expiration date with her.

KD Benson asked if Gary Schroeder would be able to notarize the affidavit.

Rodney Forbes stated that Gary Schroeder should not notarize the affidavit because he was a member of the Committee.

Steve Schreckengast asked if Gary Schroeder could notarize the affidavit if he excused himself from voting on the petition.

Rodney Forbes stated that it was still not a wise legal idea to have Gary Schroeder notarize the affidavit.

Gary Schroeder asked if there was anyone in the building that was a notary.

Kathy Lind explained that it was after 4:30 and most everyone has gone home.

KD Benson said to check and see if Mary in the Highway Department was still here.

Rodney Forbes mentioned that there was a law office down the street that should have someone.

Steve Schreckengast mentioned that there might be someone at Stallard and Schuh that could notarize it.

Sallie Fahey stated that the staff would check the Highway Department first and if May is not there, then they would send the petitioner down the street to find a notary.

KD Benson asked if the Executive Committee could be recessed until after the Ordinance Committee meeting and then re-open the Executive Committee meeting to hear the last case.

Sallie Fahey stated that was correct.

V. REVIEW AND APPROVAL OF THE JUNE ABZA PUBLIC HEARING AGENDA

Gary Schroeder moved to place the following petitions on the June 23, 2004 Area Board of Zoning Appeals Public Agenda:

BZA-1660 – RAYMOND E. BRADLEY

BZA-1666 – JAMES D. CHARER

BZA-1668 – DALE W. AND KAREN A. PERMAN

BZA-1669 – SHAWN & STEPHANIE FOSTER

Carl Griffin seconded and the motion carried by voice vote.

VI. DETERMINATION OF VARIANCES

A. LAFAYETTE DIVISION OF THE AREA BOARD OF ZONING APPEALS

Gary Schroeder moved that the following requests for variance from the Unified Zoning Ordinance are not requests for use variance, prohibited from consideration by ordinance and statute:

#2004-20—PALENTINE HOTEL CORPORATION

#2004-21—MCDONALDS CORPORATION, A DELAWARE CORPORATION

#2004-22—LAFAYETTE JEFFERSON HIGHSCHOOL BAND BOOSTERS INCORPORATED

Carl Griffin seconded and the motion carried by voice vote.

Gary Schroeder moved that with regard to the following petitions, the sign ordinance be strictly adhered to:

#2004-20—PALENTINE HOTEL CORPORATION

#2004-21—MCDONALDS CORPORATION, A DELAWARE CORPORATION

Carl Griffin seconded and the motion passed by voice vote.

VII. REVIEW AND APPROVAL OF THE MAY BUDGET REPORT

Gary Schroeder moved to accept the May 2004 Budget Report as submitted. Carl Griffin seconded the motion

Sallie Fahey reviewed the budget report and stated that most of the Travel and Training Budget has been spent on land use survey mileage. She explained that she might ask for monies to be moved around in the future. She mentioned that the bill for the new rezone signs has not come in yet.

KD Benson asked how soon the Land Use Surveys would be done.

Sallie Fahey stated that they should be complete within 2-3 weeks.

The motion carried by voice vote.

Carl Griffin moved to recess the Executive Committee meeting until after the Ordinance Committee meeting. Gary Schroeder seconded and the motion carried by voice vote.

Meeting was recessed at 5:10 pm.

Sallie Fahey stated that **S-3510—COLLIER SUBDIVISION** was now ready to be heard and there was still no representation for **S-3509—McALISTER SUBDIVISION**. She mentioned that the by-laws state that a case should be dismissed if there is no representation.

KD Benson asked if the petitioners and representatives were informed.

Sallie Fahey replied affirmatively.

Carl Griffin move to re-open the Executive Committee meeting. Robert Bowman seconded and the motion carried by voice vote.

The public hearing was re-opened at 5:45 pm.

- 4. S-3510—COLLIER SUBDIVISION (Minor-Sketch):** Petitioners are seeking primary approval for a 2-lot subdivision (and one outlot) on 4.595 acres, located at the northwest corner of CR 400 N and CR 625 E, in Washington 32 (SW) 24-3.

Gary Schroeder moved to hear and vote on the above-described request. Carl Griffin seconded the motion.

Sallie Fahey presented slides of the zoning map, 2 aerial photos, and sketch plan. . She read the staff report with recommendation of conditional primary approval contingent on the following:

FINAL PLAT – The following items shall be part of the Secondary Application and Final Plat approval:

1. Except for the approved entrances, a "No Vehicular Access" statement shall be platted along the CR 400 N and CR 625 E right-of-way lines.
2. If there is a mortgage on this property, a recorded partial release or written acknowledgment from the mortgage company must be obtained in order to dedicate the necessary right-of-way.
3. All existing easements, covenants or restrictions shall be shown and referenced with the corresponding recording information (Document Number and date recorded).
4. All required building setbacks shall be platted.
5. The street addresses and County Auditor's Key Number shall be shown.

SUBDIVISION COVENANTS – The following items shall be part of the subdivision covenants:

6. The "No Vehicular Access" restriction shall be made enforceable by the Area Plan Commission and irrevocable by the lot owners.
7. The purpose and ownership of the outlot shall be specified.

David Collier, 6340 E 450 N, Lafayette, IN, stated that he did not know where his surveyor was. He explained the reasons for this petition. He concurred with the staff report and asked for approval.

The Committee voted by ballot 6 yes to 0 no to grant conditional primary approval **S-3510—COLLIER SUBDIVISION (Minor-Sketch).**

Sallie Fahey stated that she was trying to find confirmation in the by-laws that a case that was not represented had to be dismissed.

David Williams asked if it could be continued to the regular APC meeting.

Sallie Fahey stated that was a legal question and the answer would be bound by the by-laws.

David Williams pointed out that if the petitioner were present, they could ask for a continuance.

Sallie Fahey stated that was correct.

Steve Schreckengast asked if a motion could be made to continue it, conditioned on whether the by-laws allowed it to be continued.

Rodney Forbes asked how long the by-laws had been in place.

Sallie Fahey stated that they have been in place about 20 years.

Rodney Forbes asked how long this case has been on the Executive Committee agenda.

Sallie Fahey stated that this is the first time on the agenda.

Steve Schreckengast asked how many continuance were allowed.

Sallie Fahey stated that they were allowed 3 continuances and more if the neighbors are re-notified.

Carl Griffin moved to continue **S-3509—McALISTER SUBDIVISION (Minor-Sketch)** to the June 16, 2004 Area Plan Commission meeting, in order for legal counsel to determine whether it must be dismissed. Gary Schroeder seconded and the motion carried by voice vote.

Steve Schreckengast asked what would be on the agenda for the June 17, 2004 Ordinance Committee meeting.

Margy Deverall explained that she was still waiting to hear from the development community for a recommendation on the next topic.

Sallie Fahey stated that it would be discussion on one of the residential zones, but which one had not yet been determined.

VIII. OTHER BUSINESS

None

IX. ADJOURNMENT

Carl Griffin moved to adjourn the meeting. Gary Schroeder seconded and the motion carried by voice vote. The meeting adjourned at 6:05 P.M.

Respectfully submitted,



Michelle D'Andrea
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director